

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

**DISCLOSURE OF ADDITIONAL FEES, CHARGES AND RESTRICTIONS
ON AIR FARES IN ADVERTISEMENTS, INCLUDING “FREE” AIRFARES**

NOTICE

This notice is intended to give further guidance to air carriers and other sellers of air transportation on how those additional taxes, fees, and restrictions that are permitted to be listed separately from a fare quotation may be disclosed in advertisements.¹ This guidance will be used by the Office of Aviation Enforcement and Proceedings in its compliance and enforcement activities associated with 14 CFR 399.84, the Department’s full fare advertising rule, and 49 U.S.C. 41712, which prohibits unfair and deceptive practices.

As permitted by Department rules, interpretive guidance, and enforcement case precedent, advertisements of air fares frequently do not state the full price charged the consumer, but instead quote a base fare and break out the fees and taxes that are permitted to be separately stated.² Substantial restrictions that apply to the advertised fare, which must be disclosed under Department rules and case precedent, are also generally listed separately. We are concerned that, in some instances, including in print advertisements, the notice of separately stated fees and restrictions is not adequate to alert

¹ See earlier guidance, most recently the notice dated January 18, 2001, as well as earlier notices, available at <http://airconsumer.ost.dot.gov/rules.htm>.

² While 14 CFR 399.84 requires that any advertisement of an air fare which quotes a price must state the full price to be charged the consumer, a number of exceptions have been recognized in the Department’s enforcement case precedent and in advisory letters to the industry. For example, the Department has allowed taxes and fees collected by carriers and other sellers of air transportation to be stated separately in fare advertisements so long as the charges are levied by a government entity, are not *ad valorem* in nature, and are collected on a per-passenger basis (e.g., passenger facility charges and departure taxes). The existence and amount of these additional charges, however, must be clearly indicated in the advertisement so that the consumer can determine the full fare to be paid.

consumers to the existence and nature of such material factors affecting the advertised fare.

Where an advertised fare is not the full fare, the advertisement should clearly indicate the existence and amount of the excluded charges through a description in reasonably close placement and of a reasonable size in relation to the quoted fare. The description should be easily seen and convey to the consumer the fact that additional taxes and fees apply.

We have also recently seen a proliferation of print, Internet, and billboard advertisements promoting “free” air transportation in conjunction with the purchase of one or more other tickets, but without adequate disclosure of the significant conditions that must be met to obtain the “free” air travel. This is particularly troubling not only because significant restrictions pertain to obtaining and using the “free” ticket, but also because, even after meeting the conditions, in most cases consumers still must pay taxes and fees, which, in the case of an international itinerary, may amount to well over \$100. The existence of conditions related to “free” tickets should be noted prominently and proximately to the offer of a free ticket, at a minimum through the use of an asterisk or other symbol that directs the reader’s attention to the information explaining the conditions in easily readable print elsewhere in the advertisement. Some examples of conditions that must be noted are any requirements that the consumer pay the taxes and fees that may properly be separately stated from the fare, or the existence of significant restrictions, either to qualify for the free ticket, or to use the free ticket. Similarly prominent notice of the existence of these kinds of conditions should also be made in television and radio advertising.

By this notice and in accordance with recent Department enforcement case precedent, we are also providing further guidance on how to disclose tax, fee, and restriction information in Internet advertising.³ In order to accommodate the emergence of the Internet in the sale of air transportation, the Department has permitted a full explanation of taxes, fees and conditions to be provided by hyperlinks. Specifically, Internet fare advertisements that quote a fare that is not a full fare or that has significant restrictions should have an explicit statement that additional charges apply immediately adjacent to the fare with a hyperlink to a full explanation. Alternatively, those advertisements should highlight the fact that additional fees, restrictions, or conditions apply to a specific fare or list of fares, including “free” fares, with an asterisk or other symbol immediately next to the fare or list of fares, together with a concise explanation for the asterisk or symbol (e.g., “taxes, fees, and restrictions apply”) in reasonably close placement to the relevant fare or fares. A full explanation of the nature and amount of all additional fees and significant restrictions should appear on the same page as the quoted fare or may be linked to the fare by a single hyperlink. This Internet advertising guidance also applies to

³ See, *Icelandair* (Order 2003-4-9).

banner advertisements and pop-up advertisements placed on either vendor or external sites, and e-mail advertisements, as well as to vendors' own websites.⁴

Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C-70), 400 7th St., S.W., Washington, D.C. 20590.

By:

Samuel Podberesky
*Assistant General Counsel for
Aviation Enforcement and Proceedings*

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(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov/reports>*

⁴ Our June 5, 2002, notice regarding banner advertisements addressed the distinct issue of banner advertisements on external sites offering percentage discounts, which lead a consumer to a general fare quote page on a travel vendor's site with no further information on the relevant discounts.